

**IN THE UNITED STATES COURT OF FEDERAL CLAIMS**

L. KEVIN ARNOLD, <i>et al.</i> ,	)	
	)	
Plaintiffs,	)	
	)	
v.	)	No. 19-59C
	)	(Judge Campbell-Smith)
UNITED STATES,	)	
	)	
Defendant.	)	

**NOTICE OF ADDITIONAL DIRECTLY-RELATED CASE AND MOTION TO CONSOLIDATE**

Pursuant to Rules 7(b), 40.2(a)(3), and 42.1(a) of the Rules of the United States Court of Federal Claims (RCFC), defendant, the United States, respectfully provides notice that *David Jones v. United States*, No. 19-257C, assigned to Judge Campbell-Smith, is directly-related to this case and to the other 11 cases listed in the notice of directly-related cases and motion to consolidate that defendant filed in this case, and in the other 11 directly related cases, on February 13, 2019:

1. *Justin Tarovsky et al. v. United States*, No. 19-4C;
2. *Eleazar Avalos et al. v. United States*, No. 19-48C;
3. *D.P. et al. v. United States*, 19-54C;
4. *L. Kevin Arnold et al. v. United States*, No. 19-59C;
5. *Roberto Hernandez et al. v. United States*, No. 19-63C;
6. *Tony Rowe et al. v. United States*, No. 19-67C;
7. *Plaintiff No. 1 et al. v. United States*, No. 19-94C;
8. *I.P. et al. v. United States*, No. 19-95C;
9. *Lori Anello et al. v. United States*, No. 19-118C;
10. *Joseph Abrantes et al. v. United States*, No. 19-129C;

11. *Brian Richmond et al. v. United States*, No. 19-161C; and

12. *Quentin Baca et al. v. United States*, No. 19-213C.

Dkt. No. 10 at 1.<sup>1</sup>

*Jones* is directly related to and should be consolidated with the other 12 cases for the same reasons as set forth in our February 13, 2019 notice of directly-related cases and motion to consolidate. *See* Dkt. No. 10. *Jones* asserts the same set of operative facts as asserted by the other 12 cases, seeks collective action status on behalf of himself and similarly-situated plaintiffs, as do the other cases, and seeks the same relief for the same reason, because the payment of wages for work performed during the lapse in appropriations that occurred from December 22, 2018, through January 25, 2019, was made after appropriations were restored. *Jones*, No. 19-257C, Dkt. No. 1; *see* Dkt. No. 10 at 2-5. *Jones* and the other 12 cases involve “the same parties and are based on the same or similar claims.” RCFC 40.2(a)(2)(A). Each case involves the same defendant, the United States, acting through an agency subcomponent affected by the lapse in appropriations. Each case involves the same group of proposed plaintiffs because the collective action proposed in *Jones* is subsumed by the proposed collective action of the other related cases. *Compare, e.g., Tarovsky*, No. 19-4C, Dkt. No. 6 at ¶¶ 37-42 *with Jones*, No. 19-257C, Dkt. No. 1 at ¶¶ 32-36. Together, the cases seek certification of a collective action on behalf of *all* “excepted” Federal employees who worked during the lapse in appropriations and were paid for that work after appropriations were restored, which includes the *Jones* plaintiffs.

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<sup>1</sup> This notice of the additional directly-related case and motion to consolidate does not replace or supersede the notice of directly-related cases and motion to consolidate that the United States filed on February 13, 2019, but rather adds *Jones* as another case that is also directly-related and that should also be consolidated with the other 12 cases.

In addition, *Jones* seeks virtually identical claims for liquidated damages as sought by the other cases. *Jones*, No. 19-257C, Dkt. No. 1 at Request for Relief; *see also* Dkt. No. 10 at 4-5.

Due to the directly-related nature of these cases, and in the interest of judicial economy, these 13 cases should be consolidated, with one point of contact designated on behalf of all plaintiffs' counsel. *See* Dkt. No. 10 at 5-7. Particularly, common questions of law and fact exist in each case, and the interests of judicial economy outweigh the potential for delay, confusion, or prejudice that could occur absent consolidation. *Id.*; *see AT&T Corp. v. United States*, 69 Fed. Cl. 547, 548 (2006) (citations omitted). All 13 cases should be consolidated because proceeding on each case individually would require the Court to rule on virtually identical motions, would waste scarce judicial and party resources, would result in prospective plaintiffs receiving multiple notices for essentially the same case, and would unnecessarily and exponentially increase attorney fees incurred by plaintiffs for virtually identical, overlapping work by various counsel. Because the potential for confusion, delay, and prejudice and waste of scarce judicial and party resources is extremely high if these cases were to proceed individually, these 13 cases should be consolidated, with one single point of contact provided for the Court and for defendant.

### **CONCLUSION**

Accordingly, defendant respectfully provides notice that *Jones* is directly related to this case and to the other 11 cases listed above and in our February 13, 2019 notice of directly related cases and motion to consolidate, and respectfully requests the Court to consolidate the cases and order one point of contact for the consolidated cases.

Respectfully submitted,

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Dated: February 22, 2019

Attorneys for Defendant

**CERTIFICATE OF SERVICE**

I hereby certify that, on this 22nd day of February, 2019, a copy of the foregoing “NOTICE OF ADDITIONAL DIRECTLY-RELATED CASE AND MOTION TO CONSOLIDATE” was filed electronically. This filing was served electronically to all parties by virtue of the court’s electronic filing system.

/s/ Erin K. Murdock-Park  
ERIN K. MURDOCK-PARK